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SENATE

REPORT
No. 475

# AMENDING SECTION 4 AND SECTION 6 OF THE ACT OF SEPTEMBER 11, 1957

JULY 7, 1959.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

## REPORT

[To accompany H.R. 6118]

The Committee on the Judiciary, to which was referred the bill (H.R. 6118) to amend section 6 of the act of September 11, 1957, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

### AMENDMENTS

1. On page 2, add the following new section 2:

   SEC. 2. Section 4 of the Act of September 11, 1957 (71 Stat. 639) is hereby amended by striking the date "June 30, 1959," and inserting in lieu thereof the date "June 30, 1960,".

2. Amend the title to read:

   A bill to amend section 4 and section 6 of the Act of September 11, 1957

### PURPOSE OF THE BILL

The purpose of the bill, as amended, is to extend for 2 years, with minor modifications, the discretionary authority vested in the Attorney General to grant waivers of exclusion in the case of certain aliens afflicted with tuberculosis. The purpose of the amendment is to continue for a period of 1 year the authority to issue special nonquota immigrant visas to certain eligible alien orphans.

STATEMENT

Under the provisions of section 212(a)(6) of the Immigration and Nationality Act, aliens who are afflicted with tuberculosis are ineligible to receive a visa and be admitted in the United States as permanent residents. Section 6 of the act of September 11, 1957 (Public Law 85–316) permits the Attorney General, after consultation with the Surgeon General of the U.S. Public Health Service, to admit the spouses, parents, and minor children, including minor adopted children, of U.S. citizens or of aliens lawfully admitted for permanent residence, notwithstanding the fact that such close relatives are afflicted with tuberculosis. Specific safeguards are included in existing legislation to assure that where this discretionary authority is exercised the public health and welfare will be protected and that the alien will not become a public charge. Section 6 of the act of September 11, 1957. will expire by its own terms on June 30, 1959.

The administration of existing law has indicated the advisability of continuation of the discretionary authority vested in the Attorney General under section 6 of Public Law 85–316. Medical testimony received by the Committee on the Judiciary of the House of Representatives appears to justify this view, and it is believed that the temporary law has operated satisfactorily and in the interest of the United States. It is humanitarian in nature and has not adversely affected public health and the general welfare of the United States, while serving the worthy purpose of keeping family units together by preventing separation of close relatives. The Department of Justice recommended the enactment of a predecessor bill, H.R. 3089, under which the discretionary authority vested in the Attorney General under the special temporary law would be made part of the permanent immigration statutes. A letter from the Department of Justice to the chairman of the Committee on the Judiciary of the House of Representatives reads as follows:

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,*
*House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H.R. 3089) to amend section 212(d) of the Immigration and Nationality Act.

The act of September 11, 1957 (Public Law 85–316, 71 Stat. 640), provides that notwithstanding affliction with tuberculosis, an alien who is the spouse or child of a U.S. citizen, or of an alien lawfully admitted for permanent residence, or who has a son or daughter who is a U.S. citizen or an alien lawfully admitted for permanent residence, shall, if otherwise admissible, be issued a visa and admitted for permanent residence in accordance with such terms, conditions, etc., as the Attorney General may impose in his discretion. The Attorney General is required to report to Congress any case in which these provisions are applied. Existing law contains a time limitation, to wit: June 30, 1959, after which the Attorney General may not exercise this discretionary authority to waive affliction with tuberculosis as a ground for exclusion of an immigrant.

The bill would remove the time limitation in existing law and would add the waiver provisions to the Immigration and Nationality Act as a new paragraph to section 212(d)(9) of that act.

This proposal would carry out one of the recommendations made by the President in his budget message to the Congress on January 19, 1959. The provisions of existing law, which would be carried forward by this proposal, have operated satisfactorily and in the interest of the United States, because they are humanitarian in nature and of aid in keeping family units together in meritorious cases. The Department of Justice recommends the enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

LAWRENCE E. WALSH,
*Deputy Attorney General.*

After extensive consideration of the problem, the House committee decided not to recommend permanent legislation at this time, but reported to the House the instant bill, temporary in nature, for the purpose of obtaining more experience and provide for a longer trial period in this sensitive segment of our immigration policy.

The committee is satisfied that in the administration of the 1957 law, every precaution is exercised to make certain that the alien who is afflicted with tuberculosis and who is being permitted to enter the United States, is required to submit to sufficient examinations, treatment, and observation, in accordance with medical standards accepted in the United States. The alien is required to submit assurances that he will comply with all requirements imposed upon him and a close contact is maintained between him and the proper medical and administrative authorities of the United States to guarantee that his presence in this country causes no detriment to the public health and welfare.

The committee has examined and found satisfactory the various regulations governing the administration of the temporary law. For the purpose of ready reference there is printed below section 212.7 of title 8, Code of Federal Regulations, relative to the granting of waivers of existing law.

> 8 CFR, § 212.7(b) An alien who is excludable and seeks a waiver under section 6 of the Act of September 11, 1957, shall file an application on Form I–601 at the consular office considering the application for a visa, and shall submit:
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> (1) A statement from a State, territorial, or local health officer, or from the director or a physician staff member of a hospital recognized by the United States Public Health Service as an institution for the treatment of tuberculosis, agreeing (i) to supply any treatment and observation required for proper management of the alien's condition, in conformity with accepted local standards of medical practice, and (ii) to submit to the United States Quarantine Station, Staten Island, New York, a clinical evaluation of the alien, including necessary X-ray films and a report of final disposition of the case. In each case the statement of agreement regarding these services shall specify the name, and address of the hospital where the services will be provided and shall state that the alien will be given care on an inpatient or outpatient basis when necessary after his arrival at such hospital.

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(2) An affidavit from a sponsor or other responsible individual that financial arrangements for the alien's care have been made with the hospital. This affidavit is not required of an alien who establishes eligibility under the Dependents Medical Care Act of June 7, 1956 (70 Stat. 250; 37 U.S.C. 401).

(3) Assurance that upon admission into the United States he will go direct to the specified hospital; will submit to such examinations, treatment, isolation, and medical regime as may be required; and will remain under the prescribed treatment or observation, whether on an inpatient or outpatient basis, until discharged.

(4) Assurance that he will comply with the provisions of "Sanitary Measures for Travel of Aliens with Tuberculosis," a copy of which is to be furnished to him.

According to figures submitted to the committee by the U.S. Public Health Service, a total of 1,567 persons have been admitted as of March 26, 1959, under the terms of the act of September 11, 1957. It has been further submitted to the committee that of this number, only six persons have failed to comply fully with their obligations to report to a hospital and abide by the applicable regulations. This means that there has been noncompliance by less than one-half of 1 percent of the aliens admitted. According to the U.S. Public Health Service, in all cases of noncompliance an effort is being made to obtain compliance and if such efforts fail, the Immigration and Naturalization Service is informed for the purpose of enforcing the law.

In addition to the arrangements required to be made prior to the entry of an alien beneficiary of section 6 of the act of September 11, 1957, such alien is met at the port of entry by the personnel of the Division of Foreign Quarantine of the U.S. Public Health Service, interviewed and examined, whereupon the quarantine officer reviews each case in order to ascertain that all requirements of the law and the regulations are met. Reports of the alien's arrival are then forwarded to the institution in which he has been accepted and to the local public health authorities.

The hospital approved for treatment must be one recognized by the U.S. Public Health Service as an institution for the treatment of tuberculosis. Responsibility for paying for any care that may be required must be assumed by either the sponsoring relatives of the alien or other responsible parties.

A list of hospitals approved for the purposes of section 6 of Public Law 85–316 is contained in the House report on the bill, as well as in the files of the committee.

The committee believes that extant regulations, practices, and procedures should be maintained for the period of extension of the present law with minor modifications required by the amended version of H.R. 6118.

During studies and investigations undertaken abroad by a subcommittee of the Committee on the Judiciary of the House of Representatives, it was found that in a number of cases considerable hardship is caused by the fact that the waivers could not be granted until the spouse or the parents of the alien afflicted with tuberculosis had actually made an entry into the United States and established permanent residence in this country.

In order to avoid the separation of families who, of course, desire to migrate together, and in order to facilitate the task of the intergovernmental and national agencies assisting the beneficiaries of this legislation, it is felt that it is desirable to make it possible to grant a waiver to the afflicted person after the members of his immediate family were issued immigrant visas. Thus, the family units would be united during the journey and would be in a position to make their lawful entry into the United States together. This proposal is included in the bill.

The committee believes that section 136 of the Legislative Reorganization Act, as amended, and Senate Resolution 55 of the 86th Congress provide for the committee sufficient authority to exercise continuous scrutiny and supervision of administrative operations authorized by the instant legislation. Consequently, the committee proposes to eliminate the provision of the existing law under which the Attorney General has to report to the Congress on each case of an alien admitted pursuant to his discretionary authority.

Section 4 of Public Law 85–316 authorized the issuance of special nonquota immigrant visas to certain eligible orphan aliens under 14 years of age who are adopted by U.S. citizens or who are coming to the United States to be adopted. The act specifically provided that the authority to issue such special nonquota immigrant visas was to expire on June 30, 1959, in order that the Congress might review the operations of the program and make a determination whether or not the program should be curtailed, modified or cancelled. The instant bill has been amended to extend the present authority to issue such special nonquota immigrant visas to June 30, 1960. It is the opinion of the committee that only a limited extension of the program is warranted at this time, in order to permit the committee to study further the entire operation of the program in the light of recent hearings before the Immigration and Naturalization Subcommittee.

The committee, after consideration of all the facts, is of the opinion that the bill (H.R. 6118), as amended, should be enacted.

## CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, while existing law in which no change is proposed is shown in roman):

### SECTION 6 OF THE ACT OF SEPTEMBER 11, 1957
### (71 STAT. 640)

SEC. 6. Notwithstanding the provisions of section 212(a)(6) of the Immigration and Nationality Act as far as they relate to aliens afflicted with tuberculosis, any alien who (A) is the spouse or child, including the minor unmarried adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, *or of an alien who has been issued an immigrant visa*, or (B) has a son or daughter who is a United States citizen or an alien lawfully admitted for permanent residence *or an alien who has been issued an immigrant visa*, shall, if otherwise admissible, be issued a visa and admitted to the United

States for permanent residence in accordance with such terms, conditions, and controls, if any, including the giving of a bond, as the Attorney General, in his discretion, after consultation with the Surgeon General of the United States Public Health Service, may by regulations prescribe [:]. [*Provided*, That the Attorney General shall promptly make a detailed report to the Congress in any case in which the provisions of this section are applied: *Provided further*, That no] *No* visa shall be issued under the authority of this section after June 30, [1959] *1961*.

SECTION 4 OF THE ACT OF SEPTEMBER 11, 1957
(71 STAT. 639)

SEC. 4. (a) On or before [June 30, 1959,] *June 30, 1960*, special nonquota immigrant visas may be issued to eligible orphans as defined in this section who are under fourteen years of age at the time the visa is issued. Not more than two such special nonquota immigrant visas may be issued to eligible orphans adopted or to be adopted by any one United States citizen and spouse, unless necessary to prevent the separation of brothers or sisters.

(b) When used in this section, the term "eligible orphan" shall mean an alien child (1) who is an orphan because of the death or disappearance of both parents, or because of abandonment or desertion by, or separation or loss from, both parents, or who has only one parent due to the death or disappearance of, abandonment, or desertion by, or separation or loss from the other parent and the remaining parent is incapable of providing care for such orphan and has in writing irrevocably released him for emigration and adoption; (2)(A) who has been lawfully adopted abroad by a United States citizen and spouse, or (B) for whom assurances, satisfactory to the Attorney General, have been given by a United States citizen and spouse that if the orphan is admitted into the United States they will adopt him in the United States and will care for him properly and that the preadoption requirements, if any, of the State of the orphan's proposed residence have been met; and (3) who is ineligible for admission into the United States solely because that portion of the quota to which he would otherwise be chargeable is oversubscribed by applicants registered on the consular waiting list at the time his visa application is made. No natural parent of any eligible orphan who shall be admitted into the United States pursuant to this section shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under the Immigration and Nationality Act.

(c) Any visa which has been or shall be issued to an eligible orphan under this section or under any other immigration law to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business.

(d) The Attorney General may, pursuant to such terms and conditions as he may by regulations prescribe, adjust the status to that of an alien lawfully admitted for permanent residence, as of the date

of his arrival in the United States, in the case of an alien who was paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act if such alien at the time of his arrival in the United States was an eligible orphan as defined in section 5 of the Refugee Relief Act of 1953, as amended, and was, or thereafter has been, adopted by a United States citizen and spouse in a court of proper jurisdiction.

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